STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED August 9, 2005
v	No. 253297 Calhoun Circuit Court
JUAN CARLOS CANACA, Defendant-Appellant.	LC No. 2002-002862-FH

Before: Whitbeck, C.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

A jury convicted defendant Juan Canaca of operating a motor vehicle while under the influence of intoxicating liquor (OUIL)[1] and resisting and obstructing an officer in discharge of duty.[2] Canaca appeals as of right, and we affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

Canaca was in a car that flipped over and came to rest upside down on I-94 in Battle Creek. He walked to a nearby residence and called the police. According to the testimony, he initially spoke of an armed assailant stealing his car, but then said that a friend named Solomon had been driving. At trial, Canaca again maintained that a friend had been driving, but described him with no greater particularity than the nickname "Mexico," with Kalamazoo as his place of residence. Canaca had no explanation for where this friend went when he left the scene to call the police, other than to state that the friend was an illegal alien who did not want a confrontation with the police.

The police arranged to have Canaca taken to the hospital for treatment of his injuries. While there, Canaca was advised of his chemical test rights, and he refused the test. The police obtained a search warrant and presented it to Canaca. An officer grabbed Canaca's wrist to begin the blood-extraction process, and Canaca removed the officer's hand from his wrist. The ensuing struggle ended when the police handcuffed Canaca.

[1] MCL 257.625(1).

[2] MCL 750.479.

II. Sufficiency Of The Evidence

A. Standard Of Review

We review de novo challenges to the sufficiency of the evidence, viewing the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that each element of the crime was proved beyond a reasonable doubt.[3]

B. Operating Under The Influence

Canaca challenges his conviction of OUIL on the ground that the evidence was not sufficient to show that he was the driver of the wrecked car. "Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of a crime."[4] That Canaca was in the car at the time of the accident is not in dispute. This alone is solid circumstantial evidence that Canaca was driving, to be weighed against the evidence that he was not, which consists of his own vague and inconsistent descriptions of a friend. Whether Canaca's account was credible was for the jury to determine.[5] Canaca's positing of a companion of nebulous name and whereabouts, after initially telling the police of an assailant instead, could be taken to indicate that Canaca was trying to avoid responsibility for driving while intoxicated. Canaca's presence in the vehicle, coupled with his unsatisfactory account of someone else's driving, constituted sufficient evidence to persuade the jury that he was in fact the driver. Therefore, Canaca's argument is not persuasive.

C. Resisting And Obstructing

Canaca challenges his conviction of resisting and obstructing on the ground that he began to struggle only when the officer grabbed him without provocation, aggravating pain from an injury received during the accident. However, the jury was free to infer from the testimony that Canaca acted to resist the blood draw, not that he was responding to untoward police aggression or pain stemming from the accident.[6] It is sufficient if the prosecution proves its own theory beyond a reasonable doubt in the face of whatever contradictory evidence the defense may produce; it is not necessary for the prosecution to disprove every reasonable theory of innocence.[7]

Affirmed.

/s/ William C. Whitbeck
/s/ David H. Sawyer
/s/ E. Thomas Fitzgerald

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[3] *People v Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001).

[4] *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993).

[5] See *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990).

[6] See *id*.

[7] See *People v Hardiman*, 466 Mich 417, 424; 646 NW2d 158 (2002); *People v Johnson*, 137 Mich App 295, 303; 357 NW2d 675 (1984).